IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1293 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHOK WHEAT MILL - Petitioner(s)

Versus

EXECUTIVE ENGINEER (O&M) & 1 - Respondent(s)

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Appearance :

MS ARCHANA K SINGH for Petitioner(s) : 1,
MR HEMANG RAWAL FOR MR.AD OZA for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/01/2006

ORAL JUDGMENT

1. By way of present Special Civil Application under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Appellate

Committee of the Gujarat Electricity Board dated 8th December, 1998 in partly allowing the said appeal and directing to revive the supplementary bill in part.

2. It appears from the record that an inspection was carried out by the checking squad on 20th July, 1994 by the Deputy Engineer of the Gujarat Electricity Board and it was found that the meter body seals were tampered. A supplementary bill for an amount of Rs.92,922.45 was given to the petitioner under Conditions of Supply. The petitioner preferred the appeal before the Appellate Committee and the Appellate Committee considered the submissions on behalf of the petitioner and reduced the chargeable days from 170 days to 146 days and accordingly, directed to revive the supplementary bill. Being aggrieved by and dissatisfied with the same, the petitioner has preferred the present Special Civil Application under Article 226 and 227 of the Constitution of India.

3. This matter is called out thrice today. However,

learned advocate appearing on behalf of the petitioner is absent. Under the circumstances, this Court has no alternative but to decide and dispose of the present Special Civil Application on merits exparte.

4. On going through the memo of petition as well as order passed by the Appellate Committee, it appears that the meter was sent to the laboratory and it was found that all the four seals of the meter body were tampered and interfered with as described in detail in the laboratory report. It was also found that the meter was running 17 % slow as per the checking report and as per Accy check meter test conducted at the site. The appellate committee has also considered that after inspection and theft was detected and after installation of the new meter after checking, it showed distinct rise in the consumption and therefore, the appellate committed has found that a theft case is proved against the petitioner. However, considering and accepting the submission on behalf of the petitioner with regard to weekly staggering holidays, the appellate committee has given a benefit

of 24 days and accordingly, reduced the chargeable days from 170 days to 146 days. In the facts and circumstances, for the reasons stated above, it cannot be said that there is any illegality committed by the appellate committee and / or order passed by the appellate committee is contrary to the evidence on record. Under the circumstances, no interference requires at the hands of this Court exercising the powers under Article 226 and 227 of the Constitution of India.

5. For the reasons stated above, the petition fails and same is dismissed accordingly.

Rule is discharged with no order as to costs.

[M.R.Shah, J.]

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